**THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY**

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**WRIT PETITION NO : 598 of 2005**

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**Dated: 25.08.2005**

Between:

K. Jeevan Roy, S/o. Kripanandam,
Imannual Hospital, Kondala Agraharam Village,
Makavarapalem Mandal, Visakhapatnam District.

**..... PETITIONER**

AND

Special Deputy Tahsildar (Inams), Inams Revenue Division, Visakhapatnam – 2 and others.

… **RESPONDENTS**

**ORDER:**

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This writ petition has been filed by K.Jeevan Roy, with a prayer to issue a writ or order or direction more particularly in the nature of writ of Certiorari by calling for the records pertaining to File No.A.I.P.No.1376 of 2003 from the Special Deputy Tahsildar (Inams), Inams Revenue Division, Visakhapatnam and quash the same.

2. The case of the writ petitioner, as set out in the affidavit filed in support of this writ petition, in brief, is as follows:

He purchased land in Sy.No.7/4A of Narva village, Pendurthi Mandal, Visakhapatnam District admeasuring Ac.25.05 cents through registered sale deeds

bearing Nos.114/93, 115/93, 116/93, 117/93, 195/93, 196/93, 197/93, 198/93 and 222/93 in his name, in the name of his wife Dr.K.Nalini and two other close relatives, namely, Katta Karyavardhana Rao and Mrs.Gnana Saundaryam on 23.03.1993, 15.05.1993 and 04.06.1993 from Smt.Namburi Venkata Ramanamma and Sri Namburi Venkata Surya Varsha Ramakrishna Rao. Their vendors delivered vacant and peaceful possession of the above property to them on the respective dates of registration. When one M.Gompa Dali Naidu started interfering with their possession in respect of the property purchased by them under various registered sale deeds, proceedings were initiated under Section 145 of the Criminal Procedure Code, 1973, before the Sub-Divisional Magistrate. The Sub-Divisional Magistrate, after preliminary enquiry, directed the parties to maintain status quo as on 13.09.1993 and further directed the respondents herein not to interfere with the land till the disposal of the petition. Thereafter, Vedula Govinda Sarma and others filed L.G.C.No.140 of 1995 on the file of the Special Court constituted under A.P. Land Grabbing (Prohibition) Act, at Hyderabad. The land Grabbing Court called for a report from the Mandal Revenue Officer, Pendurthi. The report sent by the Mandal Revenue Officer reveals that the petitioner and members of his family purchased Ac.25.05 cents through nine registered sale deeds. Sy.No.7/4 was held by two families i.e., Namburi family and Vedula family as pattadars. Both the families executed several sale deeds as per the oral partition entered between them. The dispute is whether the land sold by Vedula family members in favour of Gompa Dali Naidu and others is the same property that was sold by Namburi family members in favour of the petitioner and the members of his family. The land grabbing proceedings have been continued by the legal heirs of Dali Naidu, after his death. The land grabbing case was subsequently transferred to Special Tribunal-cum-Principal District Judge, Visakhapatnam and renumbered as L.G.C.No.3 of 1998. On 30.12.2004, the legal heirs of late Gompa Dali Naidu i.e., respondents 2 to 4 herein tried to interfere with the possession of the petitioner in respect of the land in question. Therefore, the petitioner lodged a complaint on 30.12.2004 to Station House Officer, P.S., Pendurthi. Then respondents 2 to 4 showed the order dated 30.09.2004 passed by the Special Deputy Tahsildar (Inams), Inams Revenue Division, Visakhapatnam-first respondent in A.I.P.No. 1376 of 2003 under Section 7(1) of A.P.Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short “the Act”). The petitioner is neither a party to the proceedings before the Special Deputy Tahsildar (Inams), nor notice has been served on him in the said proceedings.

Therefore, assailing the order dated 13.09.2004, passed by the Special Deputy Tahsildar (Inams), this writ petition has been filed.

3. Respondents 2 and 3 filed counter-affidavit. One Gompa Mangala Chandra Sekhara Rao (second respondent) has sworn to the counter-affidavit. It is stated in the counter-affidavit that the writ petition is liable to be dismissed as the petitioner has not availed the remedy of statutory right of appeal to Revenue Divisional Officer, Visakhapatnam within 60 days from the date of the order of the Special Deputy Tahsildar, Inam in A.I.P.No. 1376 of 2003 dated 30.09.2004. It is further stated in the counter-affidavit that respondents 2 to 4 are sons of late Gompa Dali Naidu and they filed an application before the Special Deputy Tahsildar (Inams), Inams Revenue Division, Visakhapatnam under Section 7(1) of A.P.Inam (Abolition and conversion into Ryotwari) Act, 1956 (for short "the Act") in respect of Sy.Nos. 7-4A and 7-4M of Narva village of Pendurthy Mandal, Visakhapatnam District. The old Sy.No.225-1C covered by T.D.No.3072 is enfranchised and the total extent of Sy.No.7-4 is Ac.208.30 cents and the members of Vedula and Namburi families are inamdars as per pre-abolition records.

4. I deem it appropriate to refer to paras 5 and 6 of the counter-affidavit and it reads as follows:

> "5. The first respondent took the case on file as A.I.P.No.1376 of 2003 and conducted suo-motu enquiry under Section 7(1) of the Act and passed orders on 30.09.2004 granting Ac.9.63 cents in Sy.No.7-4 part to 4th respondent, Ac.9.63 cents (Ac.5.26 + Ac.4.37) in Sy.No.7-4A part and 7-4 to 3rd respondent and Ac.9.63 cents in Sy.No.7-4A part to me.
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> 6. I submit as per the above orders dated 30.09.2004, I was given patta No.1183 on 10.12.2004 by Mandal Revenue Officer, Pendurthi and 3rd respondent was also given patta No.1182 by Mandal Revnue Officer, Pendurthi under A.P. Record of Rights Act and we are actual physical possession of the land of Ac.9.63 cents each and we are cultivating the same. I also submit Ryotwari patta in Form No. VIII was also granted by the 1st respondent in A.I.P.No.1376 of 2003 S.D.T.(Inams) dated 1.12.2004."

5. Heard learned counsel for the petitioner and learned counsel appearing for respondents 2 and 3.

6. Learned counsel for the petitioner submits that the petitioner purchased the land admeasuring Ac.25.05 cents under registered sale deeds in his name and in the names of members of his family from Smt.Namburi Venkata Ramanamma and Sri. Namburi Venkata Surya Varsha Ramakrishna Rao and therefore, the respondents 2 to 4 cannot claim any right over the property. She further submits that the orders passed by the Special Deputy Tahsildar (Inams), Revenue Division, Visakhapatnam is not legal and proper since no notice has been served on the petitioners. Her further submission would be that the entire extent of Sy.No. 7 is Ac.208.00 and the said land belongs to two families i.e., Namburi family and Vedula family and writ petitioners, being purchasers from Namburi family, are in no way concerned with the properties that fell to the share of Vedula family and as respondents 2 to 4 claim that they purchased the property from Vedula family, they cannot interfere with the properties in possession of the petitioners and the members of his family.

7. Learned counsel appearing for respondents 2 and 3 submits that if the petitioner is aggrieved by the order passed by the Special Deputy Tahsildar (Inams), Inams Revenue Division, Visakhapatnam, there is a statutory remedy available under the Act and therefore, the petitioner has to exhaust the remedy before invoking the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

8. Learned counsel appearing for the petitioner submits that since no notice has been issued to the petitioner in the proceedings initiated by respondents 2 to 4 before the Special Deputy Tahsildar (Inams), the petitioner is entitled to question the order passed by the Special Deputy Tahsildar. In support of her submission, reliance has been placed on the decision of our High Court in ***Vedantam SrinivasaChary Vs. Assistant Commissioner of Endowments Department, Government of A.P., Nalgonda and another" ,*** wherein, it was held that the certificate or patta issued in violation of principles of natural justice is liable to be quashed by the High Court in exercise of writ jurisdiction, notwithstanding remedy of appeal available under Section 76 of A.P. Charitable and Hindu Religious Institutions and Endowments Act 1987.

9. The case set up by the parties is divergent. The writ petitioner claims that he and members of his family purchased the property from Namburi family, however, respondents 2 to 4 claim that their father purchased the property from Vedula family.

The two families i.e., Namburi family and Vedula family own large extent of Ac.208.00 in Sy.No.7/4. During the course of arguments, it is brought to my notice that one Govinda Sarma has challenged the proceedings of the Special Deputy Tahsildar passed on 30.09.2004 by filing an appeal before the Revenue Divisional Officer, Visakhapatnam-appellate authority, and the said appeal ended in dismissal.

10. Being not a party to the appeal, the rights of the petitioner are in no way affected by the order passed by the appellate authority. In the circumstances of the case, I deem it appropriate to dispose of the writ petition giving liberty to the petitioner to challenge the proceedings of the Special Deputy Tahsildar, dated 30.09.2004 either filing an appeal as provided under Section 7 of the Act or a Revision as provided under Section 14-A of the Act within 30 days from today.

11. The writ petition is accordingly disposed of. No costs.

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25.08.2005

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